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10/827,564	04/19/2004	Richard Thiele JR.	THL-10002/29	3187

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EXAMINER
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OKEZIE, ESTHER O

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/827,564

**Applicant(s)**

THIELE, RICHARD

**Examiner**

Esther O. Okezie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

Claim 10 is objected to because of the following informalities: In line 8 of claim 10 "of" should be replaced with "are". Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-5, 14, 19, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Samsel Jr.
2. Regarding claim 1 Samsel Jr. discloses a device for lifting/manipulating logs comprising: a first arm (36) having an upper portion, a pivot portion (38) and a lower portion; a second arm (36) having an upper portion, a pivot portion and a lower portion, said pivot portion of said first arm pivotally connected to said pivot portion of said second arm; wherein at least one of said pivot portion of said first arm and said pivot portion of said second arm is offset, whereby said upper portion and said lower portion of said first arm extend along a common plane with said upper portion and said lower portion of said second arm (fig 1).

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3. Regarding claim 2 Samsel Jr. discloses the device of claim 1 wherein at least a portion of said upper portion of said first arm follows a first radius of curvature having a center on an exterior side of said first arm (fig. 1).

4. Regarding claim 3 Samsel Jr. discloses the device of claim 2 wherein at least a portion of said lower portion of said first arm follows a second radius of curvature having a center on an interior side of said first arm (fig 1).

5. Regarding claim 4 Samsel Jr. discloses the device of claim 3 wherein at least a portion of said upper portion of said second arm follows a third radius of curvature having a center on an exterior side of said second arm and at least a portion of said lower portion of said second arm follows a fourth radius of curvature having a center on an interior side of said second arm (fig 1).

6. Regarding claim 5 Samsel Jr. discloses the device of claim 4 wherein said first arm is pivotally connected to said second arm by a pivot element; and wherein said first arm transitions between said first radius of curvature and said second radius of curvature in approximate alignment with said pivot element (fig 1).

7. Regarding claim 14 Samsel Jr. discloses a device for lifting/manipulating logs comprising: a first arm (36); a second arm (36); a pivot joint (38) pivotally interconnecting said first arm and said second arm; a lift ring (30); a first shackle (34) interconnecting said first arm to said lift ring; and a second shackle (34) interconnecting said second arm to said lift ring.

8. Regarding claim 19 Samsel Jr. discloses the device of claim 14 wherein each of said first arm and said second arm are somewhat "S"-shaped having a lower portion

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extending along a radius of curvature opening inwardly and an upper portion extending along a radius of curvature opening outwardly (fig 1).

9. Regarding claim 19 Samsel Jr. discloses the device of claim 14 wherein said first arm includes an offset portion and second arm includes an offset portion; and wherein said pivot joint includes a pivot pin interconnecting said offset portion of said first arm with said offset portion of said second arm (fig 1).

10. Regarding claim 21 Samsel Jr. discloses the device of claim 14 wherein said first arm includes an offset portion and second arm includes an offset portion 9; and wherein said pivot joint includes a pivot pin interconnecting said offset portion of said first arm with said offset portion of said second arm (fig 1).

11. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Hultquist.

12. Regarding claim 1 Hultquist discloses a device for lifting/manipulating materials comprising: a first arm (14A) having an upper portion, a pivot portion (13) and a lower portion; a second arm (12A) having an upper portion, a pivot portion and a lower portion, said pivot portion of said first arm pivotally connected to said pivot portion of said second arm; wherein at least one of said pivot portion of said first arm and said pivot portion of said second arm is offset, whereby said upper portion and said lower portion of said first arm extend along a common plane with said upper portion and said lower portion of said second arm (fig 1 and 5).

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13. Regarding claim 2 Hultquist discloses the device of claim 1 wherein at least a portion of said upper portion of said first arm follows a first radius of curvature having a center on an exterior side of said first arm (fig. 1 and 5).

14. Regarding claim 3 Hultquist discloses the device of claim 2 wherein at least a portion of said lower portion of said first arm follows a second radius of curvature having a center on an interior side of said first arm (fig 1 and 5).

15. Regarding claim 4 Hultquist discloses the device of claim 3 wherein at least a portion of said upper portion of said second arm follows a third radius of curvature having a center on an exterior side of said second arm and at least a portion of said lower portion of said second arm follows a fourth radius of curvature having a center on an interior side of said second arm (fig 1 and 5).

16. Regarding claim 5 Hultquist discloses the device of claim 4 wherein said first arm is pivotally connected to said second arm by a pivot element; and wherein said first arm transitions between said first radius of curvature and said second radius of curvature in approximate alignment with said pivot element (fig 1 and 5).

17. Claims 1,6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Taniguchi.

18. Regarding claim 1 Taniguchi discloses a device for lifting/manipulating materials comprising: a first arm (10a) having an upper portion, a pivot portion (14a) and a lower portion; a second arm (10b) having an upper portion, a pivot portion and a lower portion, said pivot portion of said first arm pivotally connected to said pivot portion of said

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second arm; wherein at least one of said pivot portion of said first arm and said pivot portion of said second arm is offset, whereby said upper portion and said lower portion of said first arm extend along a common plane with said upper portion and said lower portion of said second arm (fig 1).

19. Regarding claim 6 Taniguchi discloses the device of claim 1 further comprising a first jaw affixed to said first arm, said jaw extending substantially perpendicular to the longitudinal extent of said first arm (fig 6).

20. Regarding claim 7 Taniguchi discloses the device of claim 6 wherein said jaw includes a plurality of teeth (fig 6).

21. Claims 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent JP 05286682 A.

22. Regarding claim 14 Japanese Patent JP 05286682 A discloses a device for lifting concrete blocks comprising: a first arm (2a); a second arm (2b); a pivot joint (2) pivotally interconnecting said first arm and said second arm; a lift ring (5); a first shackle (4) interconnecting said first arm to said lift ring; and a second shackle (4) interconnecting said second arm to said lift ring.

23. Regarding claim 15 Japanese Patent JP 05286682 A discloses the device of claim 14 comprising a first jaw (8a) affixed to said first arm, said first jaw extending substantially perpendicularly to a longitudinal extent of said first arm; and a second jaw (8b) affixed to said second arm, said second jaw extending substantially perpendicularly to a longitudinal extent of said second arm (fig 1).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

24. Claims 8,9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taniguchi in view of Eckert.

25. Regarding claim 8 Taniguchi discloses the device of the above claims, but does not disclose the device of claim 7 wherein said plurality of teeth are oriented along a radius of curvature having a center on an interior side of said first arm. Eckert teaches a pipe lifter with teeth (16) oriented around a curve of the jaws (14). It would have been obvious to one of ordinary skill in the art to modify the teeth of the jaws of Taniguchi to be arranged about a curve in order to grasp round objects and more securely retain objects that would slip between linearly arranged teeth.

26. Regarding claim 9 Taniguchi discloses the device wherein said jaw is manufactured from angled steel having a first leg (215a) and a second leg, said plurality of teeth being defined in said first leg (fig 6).

27. Regarding claim 10 Taniguchi disclose the device wherein said arms are moveable between a first fully open position and a second closed position: and wherein said jaw is mounted to said first arm such that said first leg of said first jaw extends



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along a substantially horizontal plane when said arms are in said first fully open position (figs 4 and 6).

28. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taniguchi and Eckert as applied to claims 8-10 above, and further in view of Cook. The combination of Taniguchi and Eckert does not disclose a pair of reinforcing plates interconnected between first jaw and said first arm, said reinforcing plates being disposed on opposite sides of said first arm and said reinforcing plates extending between said second leg and said first arm. Cook teaches a material manipulator including first arm webs arranged at acute angles to the lower first arm (24; column 4, lines 3-10; figs 3 and 4). It would have been obvious to one of ordinary skill in the art to add reinforcing plates to the jaws of the combination of Taniguchi and Eckert in order to fortify the jaws from failing when lifting heavier objects.

29. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Samsel Jr. in view of Dickey et al. Samsel et al discloses the device of claim 1 but does not disclose a first handle mounted to the first arm. Dickey et al. teaches a device for handling railroad timbers including handles (93 and 95) mounted on both arms. It would have been obvious to one of ordinary skill in the art to modify the device of Samsel Jr. to include auxiliary handles in order to provide an alternate apparatus for opening the arms in case they are locked.

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30. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent JP 05286682 A in view of Eckert.

31. Regarding claim 16 Japanese Patent JP 05286682 A discloses the device of the above claims, but does not disclose the device of claim 7 wherein said plurality of teeth are oriented along a radius of curvature having a center on an interior side of said first arm. Eckert teaches a pipe lifter with teeth (16) oriented around a curve of the jaws (14). It would have been obvious to one of ordinary skill in the art to modify the teeth of the jaws of Japanese Patent JP 05286682 A to be arranged about a curve in order to grasp round objects and more securely retain objects that would slip between linearly arranged teeth.

32. Regarding claim 17 Japanese Patent JP 05286682 A discloses the device wherein said jaws are angled having a first leg (8a) and a second leg (11a), said plurality of teeth (12a) being defined in said first leg (fig 6). It is unclear whether Japanese Patent JP 05286682 A discloses the jaws as manufactured from iron. However, it would be obvious to one of ordinary skill in the art to manufacture jaws from iron because iron is well known in the art and readily available.

33. Regarding claim 18 Japanese Patent JP 05286682 A discloses the device wherein said arms are moveable between a first fully open position and a second closed position: and wherein said jaw is mounted to said first arm such that said first leg of said first jaw extends along a substantially horizontal plane when said arms are in said first fully open position (figs 1-3).

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34. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Samsel Jr. in view of Dickey et al. Samsel et al discloses the device of claim 14 but does not disclose a second handle mounted to the second arm. Dickey et al. teaches a device for handling railroad timbers including handles (93 and 95) mounted on both arms. It would have been obvious to one of ordinary skill in the art to modify the device of Samsel Jr. to include auxiliary handles in order to provide an alternate apparatus for opening the arms in case they are locked.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (703) 305-0433. The examiner can normally be reached on Mon-Fri 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine A Matecki can be reached on (703) 308-2688. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EOO

A handwritten signature in black ink that reads "Kathy Matecki". The signature is fluid and cursive, with a long horizontal stroke at the end.

KATHY MATECKI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600